

Remarks:

In the Office Action, claims 1-3 and 5-14 were rejected under 35 U.S.C. §102(b) as being anticipated by Neuschotz, U.S. Patent No. 3,035,797. In addition, claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Neuschotz.

In this response, Applicants have made no amendments. Claims 1-14 continue to be pending. Withdrawal of the rejections in view of the following remarks is respectfully requested.

A. Interview Summary:

On August 12, 2006, the Applicant's attorney conducted a telephone interview with the Examiner. During the interview, Applicant's attorney presented the arguments that Neuschotz does not describe first and second tubular connecting elements each defining an axis and each having a mating wall disposed parallel to the axis as recited in independent claim 1. Because Neuschotz describes frusto-conical mating surfaces, it is not possible for the mating surfaces to be parallel to an axis defined by the connecting members. A three dimensional frusto-conical surfaces cannot be said to be parallel to such a straight line axis.

The Examiner indicated that the arguments appeared to be persuasive, and asked that Applicant's attorney provide the arguments in writing in response to the final office action.

B. Rejections Under 35 U.S.C. §102(b):

Claims 1, 3, and 5-13 were rejected under 35 U.S.C. §102(b) as being anticipated by Neuschotz.

Neuschotz describes a detachable connector for a fuel tank or other fluid containing cell of an aircraft. The detachable connector includes a tubular fluid tight interconnector 14 that extends between a pair of fuel cells 11. Interconnector 14 is detachably connected at each end to cells 11 using a pair of connecting assemblies 17, each including an inner connecting ring 20, rigidly attached to interconnector 14 and an outer ring 21 permanently attached to cell 11. Column 3, lines 30-69 and Figs. 1 and 2. Each inner ring 20 includes a frusto-conical seal surface 29 centered about a main axis 30, and "engageable with a correspondingly shaped annular frusto-conical seat surface

30 on ring 21.” Column 3, lines 8-13 and Fig. 2. (Note that reference number 30 is used twice in Neuschotz Fig. 2 to represent both the main axis and the frusto-conical seat surface of outer ring 21).

Independent claim 1 recites first and second tubular connecting elements each defining a respective axis and having a mating wall disposed parallel to the respective axis.

Applicants respectfully submit that Neuschotz does not disclose tubular connecting elements having a mating wall parallel to respective axes defined by the tubular connecting elements. On the contrary, the frusto-conically shaped mating seal surfaces 29 and 30 of interconnector 14 is centered about the main axis 30 are not parallel to main axis 30.

Nor is it possible for a frusto-conical surface to be parallel about any other axis defined by the tubular connecting member. According to the Miriam-Webster Online dictionary, an axis is “a straight line about which a body or a geometric figure rotates or may be supposed to rotate.” The Examiner asserts that Neuschotz defines an axis “parallel to surface 30”, without pointing out where Neuschotz discloses such an axis. Applicants submit that Neuschotz does not disclose an axis parallel to the surface 30 as asserted by the Examiner. Moreover, Neuschotz cannot disclose such an axis, since a three-dimensional conical surface cannot be parallel to an axis.

Withdrawal of the rejections to claims 1, 3, and 5-13 under 35 U.S.C. §102(b) as being anticipated by Neuschotz is respectfully requested.

C. Rejections Under 35 U.S.C. §103(a):

Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Neuschotz.

Applicants respectfully submit that Neuschotz fails to teach or suggest the feature of claim 1 discussed above. Neuschotz specifically teaches against the feature of mating surfaces disposed parallel to an axis of the connecting elements. Neuschotz describes frusto-conical mating surfaces that cannot at the same time define an axis and be disposed parallel to the axis.

D. Finality of the Rejections:

The Applicant's previous response was a first office action in this continuing application. In the Office Action, the Examiner made the rejections final, stating that “[a]ll claims are drawn to the

same claimed invention and could have been finally rejected on the grounds and art of record in the next Office action had they been entered.

Applicants respectfully submit that the finality of the rejections was improper. Final rejection on a first Office Action in a continuing application is governed by MPEP 706.07(b):

The claims of a new application may be finally rejected in the first Office action in those situations where

(A) the new application is a continuing application of, or a substitute for, an earlier application, and

(B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.

Thus, it is improper to make a rejection final merely because the claims are rejected based on the same reference. Rather, in order to finally reject the claims of a new application, the additional requirement that those claims be drawn to the “same invention” as claimed in the previous application must also be met.

In the previous response, Applicants made amendments to claims 1 and 14. In amending claims 1 and 14, Applicants added several features that were not previously part of the claimed invention. Thus, all of the claims are drawn to different subject matter, i.e., subject matter that was never before claimed in the earlier application. Accordingly, by definition, the claims are not drawn to the “same invention claimed in the earlier application.”

Moreover, after considering the amendments made in the last response, the Examiner concluded that the claimed invention, for the first time, was sufficiently different from the Shakesby reference and withdrew the previous rejections under 35 U.S.C. §102(b) with respect to Shakesby. The Examiner cannot conclude that the claimed invention is different enough to remove an outstanding rejection, but at the same time assert that the amended claims are drawn to the “same invention”.

Withdrawal of the finality of the rejection is therefore respectfully requested.

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Respectfully submitted,

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